

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

In re:)	Chapter 7
Robert B. Norland,)	
Kimberly L. Norland)	Case No. 17-10785-SDB
Debtors,)	
_____)	
)	
Joseph E. Mitchell, III, Chapter 7 Trustee)	
For Robert B. Norland & Kimberly L. Norland)	Adversary Proceeding
Plaintiff,)	No. 18-01011-SDB
v.)	
Brickyard Holdings, LLC)	
Defendant.)	
)	

**PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT AND
FOR ENTRY OF JUDGMENT BY DEFAULT**

NOW COMES, Plaintiff Joseph E. Mitchell, III, as Chapter 7 Trustee for Robert B. Norland and Kimberly L. Norland and files this Motion for Entry Of Default and for Entry Of Judgment by Default. In support, the Plaintiff shows this Court:

1. On June 29, 2018, the Plaintiff filed this Adversary Complaint against Defendant Brickyard Holdings, LLC ("Brickyard Holdings") for defaulting on a promissory note ("the Note") which Brickyard Holdings executed and delivered to Robert B. Norland.
2. The Note obligates Brickyard Holdings to pay Robert B. Norland the sum of \$145,000.00 by December 31, 2016, "the Maturity Date." Specifically, the Note obligates Brickyard Holdings to make monthly payments of \$4,000.00 to Robert B. Norland beginning January 1, 2016. The Note also states that the "full remaining balance of principal and interest accrued under this Note shall be paid in full to Lender [Norland] prior to or upon the Maturity Date."

3. The Note contains a “DEFAULT RATE” provision, which states that in the event of a default, “all outstanding Obligations between [Brickyard Holdings] and [Robert B. Norland] or its affiliates, shall bear interest at the rate of 16.00% per annum based on the 365/360 Computation (“Default Rate”).
4. The Note imposes a late charge of either 10% “of the unpaid portion of the regularly scheduled payment or \$100.00, whichever is greater,” if any payment is more than ten days late. The late charge is “intended as liquidated damages in lieu of actual damages and not as a penalty.”
5. The Note requires Brickyard Holdings to pay all of Robert B. Norland’s attorneys’ fees and other collection costs incurred in enforcing or collecting on the Note, including but not limited to in any “bankruptcy proceeding.”
6. As of the filing of this adversary proceeding, Brickyard Holdings had made no payments on the Note. Brickyard Holdings has made no payments on the Note after the filing of this adversary proceeding. Accordingly, Brickyard Holdings has been in and remains in default under the Note.
7. Because of its failure to make any payments on the Note, Brickyard Holdings owes Plaintiff the sum of \$145,000.00, plus prejudgment interest pursuant to O.C.G.A. § 7-4-15, late charges, attorneys’ fees, and other collection costs.
8. The Summons in this adversary proceeding was issued on July 2, 2018.
9. The Summons required filing of an Answer within thirty (30) days of issuance of the Summons.
10. Plaintiff’s counsel served the Defendant with the Summons and Complaint on July 6, 2018. Service was made by first class mail.

11. The Certificate of Service for the Summons and Complaint was filed on July 6, 2018.
12. The Docket Sheet in this case shows that Brickyard Holdings has not filed an answer or a motion in response within the time provided by the Summons.
13. Plaintiff's counsel has not been served with nor received an answer or motion in response from the Defendant or from an attorney representing the Defendant.
14. The Defendant is a limited liability company. It is not an infant or incompetent person, nor has it been in the military service of the United States since the filing of the suit or for a period of six months prior to such filing.

WHEREFORE, the Plaintiff respectfully requests this Court to enter default against the Defendant Brickyard Holdings, LLC and to enter judgment by default against the Defendant Brickyard Holdings, LLC.


Respectfully submitted, this 4th day of September 2018.

/s/ James S.V. Weston
James S.V. Weston
Georgia State Bar No.: 750251
Attorney for Plaintiff

TROTTER JONES, LLP
3527 Walton Way Extension
Augusta, Georgia 30909-1821
Phone: (706) 737-3138
Fax: (706) 738-3973
jamie@trotterjones.com

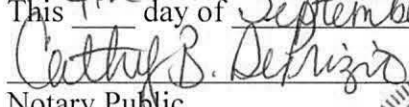
VERIFICATION

I hereby certify that the information contained in the attached **PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT AND FOR ENTRY OF JUDGMENT BY DEFAULT** is true and correct to the best of my knowledge, information and belief.


James S.V. Weston
Georgia State Bar No.: 750251
Attorney for Plaintiff

Sworn to and subscribed before me

This 4th day of September, 2018


Notary Public



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

In re:)	Chapter 7
Robert B. Norland,)	
Kimberly L. Norland)	Case No. 17-10785-SDB
Debtors,)	
_____)	
)	
Joseph E. Mitchell, III, Chapter 7 Trustee)	
For Robert B. Norland & Kimberly L. Norland)	Adversary Proceeding
Plaintiff,)	No. 18-01011-SDB
v.)	
Brickyard Holdings, LLC)	
Defendant.)	
)	

Certificate Of Service

I hereby certify that I have this day served upon the following parties a copy of the **MOTION FOR ENTRY OF DEFAULT AND FOR JUDGMENT BY DEFAULT** by depositing same in the United States Mail, addressed as indicated below, with adequate postage attached.

Brickyard Holdings, LLC
c/o its Manager and Registered Agent for Service, Scott Seymour
7401 Graham Road
Fairburn, Georgia, 30213

Chapter 13 Trustee and United States Trustee served electronically.

This 4th day of September, 2018.

/s/ James S.V. Weston
James S.V. Weston
Georgia State Bar No.: 750251
Attorney for Plaintiff

TROTTER JONES, LLP
3527 Walton Way Extension
Augusta, Georgia 30909-1821
Phone: (706) 737-3138

Fax: (706) 738-3973
jamie@trotterjones.com